BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2002-309-C - ORDER NO. 2003-332

MAY 19, 2003

IN RE: Rule to Show Cause Against T-ZAK

Wireless, Inc. d/b/a Talk Now USA

ORDER REVOKING

CERTIFICATE AND

RESCINDING TARIFFS

AND AGREEMENTS

This matter comes before the Public Service Commission of South Carolina (the Commission) on this Commission's Rule to Show Cause issued against T-ZAK Wireless, Inc. d/b/a Talk Now USA (T-ZAK or the Company). The Company was ordered to show cause as to why its Certificate of Public Convenience and Necessity granted in Order No. 2000-0519, dated June 22, 2000 should not be revoked, due to lack of financial ability and failure to provide adequate service to its customers. The Rule was issued at the request of the Commission Staff, and was contained in Order No. 2002-791.

On September 23, 2002, the Commission Staff filed a Petition for Rule to Show Cause against the Company alleging *inter alia* that on or about August 12, 2002, 556 customers of T-ZAK were disconnected, because of T-ZAK's failure to pay some \$60,000 to one of its underlying carriers, BellSouth Telecommunications, Inc. for carrying T-ZAK's traffic. Further, the Petition alleged that service to an additional 208 customers was to be disconnected shortly after the filing of the Staff Petition, due to the Company's failure to pay monies owed to Sprint-United, another one of the Company's underlying carriers. Staff alleged that these occurrences brought into question T-ZAK's

financial ability to provide pre-paid local service to the citizens of South Carolina. In addition, the Staff stated its belief that adequate service was not being provided to the Company's customers, due to the financial issues stated above. Lastly, Staff requested that the Commission issue its Rule to Show Cause as to why the Company's Certificate of Public Convenience and Necessity should not be revoked, based on lack of financial ability and inadequate service.

Although T-ZAK was properly served with the Staff Petition, it failed to respond, and this Commission issued the requested Rule to Show Cause in Order No. 2002-791.

Accordingly, a hearing on the Rule was held on April 9, 2003 at 11:30 AM in the offices of the Commission. The Honorable Mignon Clyburn, Chairman, presided. The Commission Staff was represented by F. David Butler, General Counsel. The Staff presented the testimony of David S. Lacoste. Although it appears that T-ZAK was properly notified of the hearing, no one representing the Company appeared. There were no intervenors in the case.

Pursuant to the Staff Petition, Staff witness David Lacoste asked the Commission to revoke the Company's Certificate. Lacoste noted that T-ZAK was in arrears to all four of its underlying carriers at the time of the hearing, and that those carriers were not providing any resale access lines to T-ZAK. In addition to the above, Lacoste noted that the last Company gross receipts report was filed as of June 20, 2001. No required reports have been filed by the Company since that gross receipts report.

Lacoste summarized his testimony by stating that due to T-ZAK's evident lack of financial resources sufficient to provide services to its customers, failure to pay its

underlying carriers, complaints to the Commission by consumers, failure to comply with most of the Commission's reporting requirements and failure to respond to the Staff's Rule to Show Cause Petition, the Commission should revoke the Company's Certificate of Public Convenience and Necessity. Further, Lacoste noted that the approval of the Company's tariff and all existing local service Interconnection Agreements involving T-ZAK should be rescinded.

We have examined the record in this case, including the documentary evidence, and we conclude that we agree with the Commission Staff. Clearly, the Company now lacks the financial ability to participate in the market as a competitive telecommunications carrier. It owes large sums of money to its underlying carriers. Further, as of the hearing date, the Company had no resale access lines. Accordingly, because of this and lack of funds, the Company cannot provide adequate service. Considering this evidence, we hold that the Company's Certificate of Public Convenience and Necessity to operate is hereby revoked. We also rescind approval of the Company's tariff and all existing local service Interconnection Agreements involving T-ZAK.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Mignon L. Clyburn, Chairman

ATTEST:

Gary E. Walsh, Executive Director

(SEAL)